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*ADMITTED IN DC ONLY

October 15, 2015

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket No. 12-375 - Global Tel*Link Corporation – Written *Ex Parte* Presentation

Dear Secretary Dortch:

Global Tel*Link Corporation (“GTL”), through its counsel, hereby respectfully submits this response to the letter filed by Praeses LLC (“Praeses”) on October 13, 2015¹ in which Praeses provides its views on the Fact Sheet issued in the Federal Communications Commission (“FCC”) inmate calling services (“ICS”) proceeding.²

¹ WC Docket No. 12-375, Letter from Praeses LLC (dated Oct. 13, 2015) (“Praeses Letter”).

² FACT SHEET: Ensuring Just, Reasonable, and Fair Rates for Inmate Calling Services (rel. Sept. 30, 2015) (“Fact Sheet”), available at <https://www.fcc.gov/document/fact-sheet-ensuring-just-reasonable-fair-rates-inmate-calling>; see also *Rates for Interstate Inmate Calling Services*, 28 FCC Rcd 14107 (2013) (“*ICS Order and First FNPRM*”), *pets. for stay granted in part sub nom. Securus Tech., Inc. v. FCC*, No. 13-1280 (D.C. Cir. Jan. 13, 2014), *pets. for review pending sub nom. Securus Tech., Inc. v. FCC*, No. 13-1280 (D.C. Cir. filed Nov. 14, 2013) (and consolidated cases); see also *Rates for Interstate Inmate Calling Services*, 29 FCC Rcd 13170 (2014) (“*Second ICS FNPRM*”).

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Praeses is not an ICS provider, but instead provides consulting services to correctional facilities.³ Praeses is a for-profit company that has built its correctional facility services business based on the exchange of services for a flat fee or percentage of the site commissions received by correctional facilities from ICS providers. Its fee for its “consulting” services is directly tied to the amount of site commissions a correctional facility receives from its ICS provider.⁴ Thus, any positions taken by Praeses regarding payments made to correctional facilities must be viewed in light of its position in the ICS marketplace and its self-interest in preserving the existing site commission system in order for Praeses to be paid for the services it provides to its correctional institution customers.⁵

It is disingenuous for Praeses to claim that it has seen multiple instances in which ICS providers have responded to Requests for Proposals (“RFPs”) that included the payment of site commissions and ICS rates at or below the proposed rate caps in the Fact Sheet.⁶ As GTL previously has explained, ICS providers must bid consistent with the RFP issued by the correctional facility to be a contender in the competitive bidding process required to provide ICS.⁷ The ICS “market will continue responding to the economic interests and demands” of correctional facilities “rather than those who pay for . . . services”⁸ as long as correctional facilities continue to declare that contract awards will be based on the highest site commission offered.⁹

A RFP issued by Praeses client Blue Ridge Regional Jail Authority (“BRRJA”)¹⁰ demonstrates this point.¹¹ The RFP provides potential bidders with two choices regarding calling rates and site commission payments. First, under “Financial Option Number One,” ICS providers must comply with specified calling rates and fee amounts, and pay an “upfront financial guarantee covering the full length of” the initial term of the contract.¹² The ICS

³ WC Docket No. 12-375, Letter from Praeses LLC (dated Oct. 3, 2014). These services include evaluating and negotiating contracts with ICS providers, and monitoring ICS providers’ compliance with those contracts.

⁴ WC Docket No. 12-375, Letter from Global Tel*Link Corporation (dated Nov. 20, 2014).

⁵ See, e.g., WC Docket No. 12-375, Letter from Securus Technologies, Inc. at 1-3 (dated Sept. 20, 2015) (“Praeses’ entire business model depends on the site commission model that exists today. . . . The higher the amount of the site commission, the more money Praeses makes.”).

⁶ Praeses Letter at 2.

⁷ See, e.g., WC Docket No. 12-375, Letter from Global Tel*Link Corporation (dated Sept. 25, 2015).

⁸ WC Docket No. 12-375, Network Communications International Corp. Reply Comments on Written Ex Parte Presentation Andrew D. Lipman (dated June 29, 2015).

⁹ WC Docket No. 12-375, Letter from Global Tel*Link Corporation (dated July 1, 2015).

¹⁰ Request for Proposal, Inmate Telephone Service, Blue Ridge Regional Jail Authority, RFP No. 133-FY15 (release date Feb. 10, 2015) (“BRRJA RFP”) (relevant portions attached), *available at* http://www.brrja.state.va.us/wp-content/uploads/2015/02/IM-PHONE-SVCS_133_FY15_021015.pdf.

¹¹ As shown in the BRRJA RFP, Praeses is listed as the as the contact for submission of a proposal (§ 2.4.1) and to answer any questions regarding the RFP (§ 2.6.5); *see also* WC Docket No. 12-375, Letter from Securus Technologies, Inc. at 4 (dated July 30, 2014) (discussing the relationship between Praeses and the BRRJA).

¹² BRRJA RFP § 7.5.2.

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provider also may be subject to additional “Cost Reimbursement” for certain *additional* administrative and operational costs not covered by the “financial guarantee,” and the ICS provider also may propose “an additional Financial Incentive.”¹³ Under “Financial Option Number Two,” ICS providers must comply with the same specified calling rates and fees, but under this arrangement, 100% of all gross revenues must be remitted to Praeses/BRRJA, and then the ICS provider must “invoice” Praeses/BRRJA for the cost of the total number of completed calls at an agreed-upon per-call amount.¹⁴ There is no “market-driven”¹⁵ basis for these types of “financial options” other than to maximize Praeses’ bottom line.

Under these “options,” Praeses/BRRJA determines the rates to be charged, collects and distributes the revenue as it sees fit, and makes all decisions regarding the provision of ICS. In this regard, Praeses/BRRJA appears to be seeking to establish itself as the service provider without the required authority. In determining whether an entity is engaged in the provision of telecommunications service, the FCC previously has looked at whether the entity is offering a service to others for a profit¹⁶ and whether it sells services “at terms and prices it sets.”¹⁷ The types of “overt price control” and other evidence of control “in establishing the prices and other specific terms” of the services provided as exercised by Praeses/BRRJA here have been used to demonstrate an entity is the provider of service.¹⁸

Praeses also spends numerous pages attempting to support the legality of the ICS rate and site commission proposals contained in the Fact Sheet.¹⁹ Praeses has not reviewed the confidential cost data submitted by ICS providers, and thus has no basis to give its opinion on the effect of the proposed ICS rates on the ICS industry. ICS providers, not Praeses, are in the best

¹³ BRRJA RFP at Appendix B.

¹⁴ BRRJA RFP § 7.5.3.

¹⁵ Praeses Letter at 2.

¹⁶ *Regulatory Policies Concerning Resale and Shared Use of Common Carrier Services and Facilities*, 60 FCC 2d 261, ¶ 8 (1976) (“Because sharing does not constitute the offering of a service by one entity to others for a profit, we find that entities engaged in sharing arrangements are not subject to regulation under Title II of the Act.”), *aff’d on reconsideration*, 62 FCC 2d 588 (1977), *aff’d sub nom.*, *AT&T v. FCC*, 572 F.2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978).

¹⁷ *Furnishing of Customer Premises Equipment by the Bell Operating Companies and Independent Telephone Companies*, 3 FCC Rcd 4604, ¶ 20 (1988).

¹⁸ *AT&T Corp., Complainant v. BellSouth Corporation, and Its Carrier Subsidiaries and Affiliates, Including (but not limited to) BellSouth Long Distance, Inc. and BellSouth Telecommunications, Inc., Defendants*, 14 FCC Rcd 8515, ¶ 36 (1999) (looking at whether the entity had “overt price control” to determine whether it was illegally offering service); *AT&T Corp. v. Ameritech Corp.*, 13 FCC Rcd 21438, ¶ 50 (1998) (looking at the entity’s “role in establishing the prices and other specific terms of the long distance services provided” in determining whether the entity was illegally offering service).

¹⁹ Praeses Letter at 4-7. In discussing the FCC’s regulation of “private contractual arrangements” (Praeses Letter at 3), Praeses also ignores the record evidence demonstrating that the FCC has the ability “to mandate that the contracts be modified so that they reflect rates that comply with the relevant legal requirements” and “the power to prescribe a change in contract rates when [the FCC] finds them to be unlawful.” *ICS Order and FNPRM* at n.365 (citing *Western Union Tel. Co. v. FCC*, 815 F.2d 1495 (D.C. Cir. 1987)) (internal quotations omitted).

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position to determine whether adoption of the Fact Sheet's proposals on ICS rates and site commissions will result in confiscatory rates. Since the release of the Fact Sheet, the vast majority of ICS providers have warned the FCC that adoption of the Fact Sheet's proposals will not allow ICS providers to recover their costs and will result in an economic loss.²⁰ Praeses' views on the Fact Sheet should be given no weight, and its positions on the continuation of the existing site commission system must be viewed in light of its self-interest in maintaining them.

Praeses also misconstrues the position of Andrew Lipman regarding the treatment of existing ICS contracts if the Fact Sheet proposals are adopted.²¹ Lipman advocates for the grandfathering of existing ICS contracts only if the FCC does not address the existing site commission regime and only for those contracts containing site commission payment requirements:

This letter addresses two intertwined problems with the FCCs' proposed approach. . . . To address this problem the FCC either needs to prohibit or regulate site commissions, for example by adopting the proposal to prohibit all site commissions except for a small per-minute additive above the proposed rate caps, or it needs to grandfather all existing contracts that require the payment of site commissions.²²

By contrast, Praeses proposes that all existing contracts be grandfathered,²³ which is simply another tactic by Praeses to ensure the continuation of its current revenue stream.

Finally, Praeses once again fails to acknowledge²⁴ the FCC's previous determination that the payment of site commissions based on interstate ICS revenues is not permissible and such continued payments are subject to enforcement action pursuant to the FCC's complaint process

²⁰ See, e.g., WC Docket 12-375, Letter from Global Tel*Link Corporation (dated Oct. 10, 2015); WC Docket No. 12-375, Letter from Pay Tel Communications, Inc. (dated Oct. 7, 2015); WC Docket No. 12-375, Letter from Securus Technologies, Inc. (dated Oct. 7, 2015); WC Docket No. 12-375, Letter from CenturyLink (dated Oct. 13, 2015); see also *Alabama Cable Telecomms. Ass'n v. Alabama Power Co.*, 16 FCC Rcd 12209, ¶ 51 (2001) ("if the end results of the regulations are '[r]ates which enable the company to operate successfully, to maintain its financial integrity, to attract capital, and to compensate its investors for the risks assumed' then the regulations are constitutionally valid") (citing *FPC v. Hope Natural Gas Co.*, 320 U.S. 591, 605 (1944)); *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 307 (1989) (finding the Fifth Amendment to the Constitution protects regulated entities from regulations that are "so unjust as to be confiscatory"); *AT&T v. FCC*, 836 F.2d 1386, 1391-92 (D.C. Cir. 1988) (rejecting FCC rule that would "guarantee the regulated company an economic loss").

²¹ Praeses Letter at n.7.

²² WC Docket No. 12-375, Letter from Andrew D. Lipman at 1 (dated Oct. 9, 2015).

²³ Praeses Letter at 3 ("Praeses encouraged the Commission to allow Providers and Facilities to continue to operate under their existing agreements until at least the earlier of the expiration of such agreements and two years from the date that the actions contemplated by the Fact Sheet become effective.").

²⁴ Praeses Letter at n.9. Praeses also wrongly indicates that the FCC's 2013 *ICS Order and First FNPRM* "lowered intrastate ICS rates" and could require ICS providers "to defend their intrastate rates." See *id.* The FCC's 2013 decision addressed only interstate ICS, and did not make any determinations regarding intrastate ICS. See, e.g., *ICS Order and First FNPRM* ¶ 12 (stating the FCC was taking action on "interstate ICS rates").

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under section 208 of the Communications Act.²⁵ Praeses' actions and positions add nothing of value to this proceeding and further perpetuate the problem repeatedly identified by the FCC that unconstrained site commissions have a negative effect on ICS rates.²⁶

Pursuant to Section 1.1206(b) of the FCC's rules, a copy of this notice is being filed in the appropriate docket.

Please contact me if you have any questions regarding this matter.

Respectfully submitted,

/s/ *Chérie R. Kiser*

Chérie R. Kiser

Counsel for Global Tel*Link Corporation

Attachment

cc (via e-mail): Chairman Tom Wheeler
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
Commissioner Michael O'Rielly
Jonathan Sallet
David Gossett
Richard D. Mallen
Suzanne Tetreault

²⁵ See, e.g., *ICS Order and First FNPRM* ¶ 58 (the interim interstate ICS "rate caps prohibit the recovery of site commission payments"); *id.* at n.273 ("site commissions are not part of the cost of ICS" and thus the FCC did "not include the site commission profits in setting either the debit, prepaid or collect rate caps"); *id.* ¶ 54 ("[S]ite commission payments are not part of the cost of providing ICS and therefore not compensable in interstate ICS rates."); *id.* ¶ 56 ("site commission payments as a category are not a compensable component of interstate ICS rates"); *Wireline Competition Bureau Addresses the Payment of Site Commissions for Interstate Inmate Calling Services*, 29 FCC Rcd 10043 (2014) ("August 20 Public Notice"); see also 47 U.S.C. § 208. The FCC reiterated that the payment of site commissions on interstate ICS revenues suggests those rates exceed the reasonable costs of providing interstate ICS and could be found to be unjust and unreasonable, and be subject to refunds to end users even if the ICS provider was charging the ICS rate caps adopted by the *ICS Order and First FNPRM*. See *August 20 Public Notice* at 2.

²⁶ See, e.g., *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 17 FCC Rcd 3248, ¶ 10 (2002) (finding site commission payments are "the single largest component affecting the rates for inmate calling service"); *ICS Order and First FNPRM* ¶ 34 ("where site commission payments exist, they are a significant factor contributing to high rates"); *Second ICS FNPRM* ¶ 20 ("The pressure to pay site commissions that exceed the direct and reasonable costs incurred by the correctional facility in connection with the provision of ICS continues to disrupt and even invert the competitive dynamics of the industry.").

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Request for Proposal
Inmate Telephone Service

Blue Ridge Regional Jail Authority
RFP No.: 133-FY15

Release Date:
February 10, 2015

Proposal Due Date:
March 31, 2015

Refer ALL Inquiries to:

Matt Marsteller
mmarsteller@brrja.state.va.us
Assistant Administrator
510 Ninth Street
Lynchburg, VA 24504
434-847-3100 ext. 202

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comply” and considered an exception (“Exception”). Exceptions to any section or numbered item must be addressed and listed in [Appendix D – Exceptions](#).

- 2.3.10. Several sections and numbered items require additional explanation and should include specific concise responses that fully address the question/information requested in that section. Include only those exhibits and/or visual aids that are clearly relevant to the specific section and numbered item and in accordance with Table 2 above.
- 2.3.11. All information contained in Vendor’s proposal must be relevant to a section or numbered item of this RFP. Any information which does not meet this criterion shall be deemed extraneous and shall not be evaluated.
- 2.3.12. Vendor may include complete client lists or general vendor information in Attachment 11 - “Other Vendor Brochures/Documents” of its proposal but must adhere to the page limit.
- 2.3.13. Failure to follow the instructions in this RFP may, at BRRJA’s sole discretion, result in the rejection of Vendor’s proposal.
- 2.3.14. All costs and expenses relating to the preparation, production, handling, reproduction, administration of the proposal and its submission are to be borne solely by the Vendor. All records, documents and information collected and/or maintained by others in the course of the preparation of this proposal shall be made accessible to BRRJA for purposes of inspection, reproduction, and audit without restriction. Vendor shall agree that BRRJA and/or its Designated Agent may audit, examine, and copy any and all books, records and information relating to the proposed Vendor’s services at no cost to BRRJA. Also, responding Vendors must maintain all records until a successful Vendor has been announced and/or an Agreement has been awarded.

2.4.Submission of Proposal

- 2.4.1.Deliver 7 paper copies (1 original and 6 copies), 1 electronic version on CD, DVD or USB Flash Drive, and 2 email versions of the proposal on or before the Proposal Due Date to the following addresses:

- 2.4.1.1. Send 1 original and 6 paper copies, 1 electronic version, and 1 email version to:

Blue Ridge Regional Jail Authority
Attn: Tim Trent, Administrator
510 Ninth Street
Lynchburg, VA 24504
Email – ttrent@brrja.state.va.us

- 2.4.1.2. Send 1 email version to:

Praeses
Attn: Cheryl Andryco
Email – cheryl.andryco@praeses.com

- 2.4.2.Vendor is responsible for ensuring the electronic version and the chosen media are free from any viruses, malware or malicious code. Electronic versions so compromised will be considered non-compliant. The electronic version shall be inclusive of all information and the in the order required in Table 2 above.

2.6.5.RFP questions or comments shall be emailed to both contacts listed below:

Blue Ridge Regional Jail Authority
Attn: Matt Marsteller, Assistant Administrator
510 Ninth Street
Lynchburg, VA 24504
Email – mmarsteller@brrja.state.va.us

with a copy to:

Praeses
Attn: Cheryl Andryco
Email – cheryl.andryco@praeses.com

2.7.RFP Specification Changes

- 2.7.1.BRRJA reserves the right, at any time, to amend any portion of this RFP in the form of an addendum or amendment.
- 2.7.2.BRRJA reserves the right to withdraw and/or reissue the RFP in whole or in part at any time during the RFP process. BRRJA reserves the right to not award an agreement pursuant to this RFP (“Agreement”).
- 2.7.3.Vendor’s submission of a proposal shall not bestow any rights upon Vendor nor obligate BRRJA in any manner.

2.8.Discrepancy between Proposal and Agreement

- 2.8.1.Discrepancies among the following documents shall be resolved in the following order, with the higher ranking documents taking precedence over the lower (shown higher to lower).
 - 2.8.1.1. Negotiated Agreement and any amendments or addenda;
 - 2.8.1.2. RFP and any amendments or addenda;
 - 2.8.1.3. Vendor’s final proposal.

2.9.Confidentiality

- 2.9.1.Vendor proprietary and/or confidential information must be clearly marked and identified as such. If such proprietary and/or confidential information is a trade secret(s), such trade secret(s) will be subject to disclosure as is required by Virginia public disclosure and open records laws. Vendor shall not intentionally mark any portion of its proposal as “proprietary” or “confidential” that it does not have a good faith belief to be proprietary or confidential or in any other way to attempt to prohibit compliance with public record disclosure requirements. Should Vendor’s information, which is marked as proprietary or confidential, be requested as part of a public information act request, BRRJA may notify Vendor in writing before such information is released as required by the applicable act or law. Vendor agrees, at its expense, to defend and hold harmless BRRJA from claims involving infringement of any intellectual property.

2.10.Acceptance Period

7. GENERAL CONDITIONS

7.1. Project Scope

- 7.1.1.BRRJA requires a turnkey inmate calling solution which shall include, without limitation, collect, pre-paid, debit and free calling. Vendor shall install and operate inmate telephones, and related equipment. Vendor shall, without cost to BRRJA, provide all wiring for the inmate telephones, install the inmate telephones and the related hardware and software specifically identified herein, to enable inmates at the Facilities to complete, without limitation, local, long distance and/or international collect, pre-, debit and free calls.

7.2. Agreement Length

- 7.2.1.BRRJA intends to award a 3 year Agreement (“Initial Term”) with the option to renew for 2 additional 1 year terms or on a month-to-month basis (not to exceed 12 months). All terms and conditions, requirements and specifications of the Agreement shall remain the same and apply during any renewal terms. The Agreement shall not automatically renew.

7.3. Surety Bond

- 7.3.1. Within 10 calendar days after the award of the Agreement and prior to any installation work or equipment delivery, the awarded Vendor shall furnish a bond in the form of a Surety Bond, Cashier’s Check, or Irrevocable Letter of Credit, issued by a surety company authorized to do business in the Commonwealth of Virginia, and payable to BRRJA.
- 7.3.2. The Surety Bond must be made payable to BRRJA in the amount of \$125,000.00 and will be retained during the full term of the Agreement and any renewal terms. Personal or company checks are not acceptable. The Agreement number (if applicable) and/or dates of performance must be specified on the Surety Bond.
- 7.3.3. In the event BRRJA exercises its option to renew the Agreement for an additional term, Vendor shall be required to maintain the Surety Bond for the renewal term, pursuant to the provisions of this section, in an amount stipulated at the time of the Agreement renewal.

7.4. Vendor Costs and Taxes and Fees on Services

- 7.4.1. It is expressly understood that BRRJA is not responsible in any way, manner or form for any of Vendor’s costs, including but not limited to taxes (including sales tax), shipping charges, network charges, insurance, interest, penalties, attorney fees, liquidated damages, licenses, fees, tariffs or other costs related to any and all Vendor’s services.
- 7.4.1. Vendor agrees that it is entirely responsible for calculating, collecting and remitting all fees and taxes, including sales tax where applicable, on all services and items provided to the inmates. Including but not limited to any and all taxes as applicable for the following services:
- 7.4.1.1. ITS services such as; collect, debit, pre-paid and any other calls.

7.5. Financial Approach and Reporting

- 7.5.1. In its proposal, Vendor is required to offer 2 types of financial options as specified below. Regardless of the financial option selected by BRRJA, Vendor shall provide full reporting as required herein.
- 7.5.2. **Financial Option Number One:**

- 7.5.2.1. Vendor shall comply with the calling rates and maximum allowed fees identified under Option 1 of [Appendix B – Calling Rates and Financial Approach](#).
- 7.5.2.2. BRRJA does not wish to earn commission based on the Gross Revenue generated under the awarded Agreement.
- 7.5.2.3. Vendor shall offer BRRJA an upfront financial guarantee covering the full length of the Initial Term. Such financial guarantee shall take into consideration BRRJA's current Minimum Annual Guarantee ("MAG"), monthly calling statistics, calling rates and other information regarding BRRJA's current ITS environment, provided in [Appendix A – Facility Specifications](#). The financial guarantee shall be due and payable to BRRJA or its Designated Agent upon execution of the Agreement.
- 7.5.2.4. The financial guarantee offered by Vendor will be utilized by BRRJA to recoup some but not all administrative and operational costs for its Facilities during the Initial Term. Under this RFP and the awarded Agreement, BRRJA may recoup from Vendor certain administrative and operational expenses incurred in providing inmate telephone services ("Cost Reimbursement") in the event BRRJA extends the Agreement past the Initial Term. The Cost Reimbursement shall be due and payable upon receipt of the invoice by Vendor and as outlined in [Section 7.5 - Financial Approach and Reporting](#).
- 7.5.2.5. Should a federal, state or local regulatory agency issue a ruling which significantly lowers the calling rates or fees in the Agreement, Vendor shall adjust the calling rates and make them in compliance with the calling rates implemented by the regulatory agency or terminate the Agreement without penalty to BRRJA so that BRRJA may select another inmate telephone service provider.

7.5.3. Financial Option Number Two:

- 7.5.3.1. Vendor shall comply with the maximum allowed fees identified under Financial Option Number Two of [Appendix B – Calling Rates and Financial Approach](#).
 - 7.5.3.2. Vendor shall propose to BRRJA a cost-based financial option for providing the turn-key ITS as specified in this RFP inclusive of all requirements and specifications. The cost-based financial offer shall be specified on a **per call** basis for all call types as shown in [Appendix A – Facility Specifications](#). **Vendor's proposal shall include itemized cost detail to support the proposed per-call cost. Failure to provide this information may result in disqualification of Vendor from the RFP process.**
 - 7.5.3.3. BRRJA will specify the calling rates to be charged for each call type upon Agreement award and Vendor shall charge calls at the approved rates.
 - 7.5.3.4. One Hundred Percent (100%) of all Gross Revenues (as defined) generated based on the approved calling rates will be remitted to BRRJA upon the completion of each traffic month. Each traffic month shall be defined as a calendar month.
 - 7.5.3.5. Vendor will invoice BRRJA monthly for **total number of completed calls (excluding free and complimentary calls)** generated by and through the ITS based on the agreed-upon per call cost amount.
 - 7.5.3.5.1. Vendor's invoice for the previous month's completed calls is due to BRRJA on or before the 10th day of the month following the month of traffic.
 - 7.5.3.5.2. BRRJA will remit payment for the previous month's completed calls within 30 days.
- 7.5.4. Gross Revenue consists of all earnings, gain, income, generated revenue, proceeds or receipts paid to or received by Vendor that are in any way connected to the provision of ITS service pursuant to this

RFP and Agreement. Gross Revenue includes, by way of example and not limitation, all the following: all surcharges, per minute fees and any additional fees and/or charges generated by the completion of all calls (including any combination of free, collect, debit, and pre-paid local, Intralata/Intrastate, Intralata/Interstate, Interlata/Intrastate, Interlata/Interstate and International calls), additional fees and/or charges added to the total cost of a call or added to the called party's bill or any other earnings received by Vendor.

7.5.5. Vendor's per call cost shall take into consideration all unbillable calls, bad debit, uncollectible calls, taxes and fraudulent calls. Vendor's supporting documentation shall itemize each of these expenses and how they make up the proposed per call cost.

7.5.6. Any additional fees to be added to the called party's bill or paid by the calling or called party (including those associated with establishing/funding pre-paid collect accounts) for inmate telephone calls from the Facilities must be approved by BRRJA prior to implementation. BRRJA.

7.5.7. Any charges/fees added to the called party's bill without the express written consent of BRRJA shall incur a fine of \$500.00 per day from the date the additional charges/fees were first added through the date the charges/fees were discontinued.

7.5.7.1. BRRJA shall notify Vendor of any unapproved additional fees and/or charges of which BRRJA becomes aware of and shall provide Vendor with an invoice for the total fine due, for which Vendor shall remit payment to BRRJA within 30 days.

7.5.7.2. Vendor shall refund each called party for the unapproved charges/fees from the date the charges/fees were implemented until the date the charges/fees were discontinued.

7.5.8. Notwithstanding the foregoing, Gross Revenue does not include:

7.5.8.1. Pre-Paid Collect Fees. Pre-paid collect fees are defined as fees imposed on called parties who set up and/or fund a pre-paid collect account with Vendor or a third party (i.e. Western Union) to accept calls. All pre-paid collect fees must be approved by BRRJA and are subject to the penalty defined above if not approved by BRRJA in advance. Vendor shall comply with the amount specified in [Appendix B – Calling Rates and Financial Approach](#).

7.5.8.2. Required regulatory charges and taxes that are intended to be paid by the called party and then remitted 100% by the billing party to the appropriate governmental agency.

7.5.8.3. A "Free" call shall be defined as a call not generating any revenue for Vendor. Calls to telephone numbers that appear on the free call list supplied by BRRJA or from inmate telephones approved by BRRJA to process free calls shall not generate revenue for Vendor and shall not be commissionable to BRRJA. Only those numbers designated by BRRJA on the free call list and inmate telephones approved by BRRJA to process free calls shall be marked as "Free" in the ITS and designated as such in the call detail records.

7.5.8.3.1. As identified above, BRRJA's authorized free calls shall not generate revenue for Vendor. In the event Vendor receives revenue, notwithstanding the source, from any third party related to a completed free call, authorized or unauthorized by BRRJA, Vendor shall remit all revenues received for each completed free to BRRJA.

7.5.8.4. Complimentary calls associated with Vendor's pre-paid collect program are not invoiced and shall not generate revenue for Vendor. Vendor shall specify the duration of and the frequency between each complimentary call to a unique telephone number. Vendor shall indicate how complimentary calls are labeled in the call detail records.

7.5.9. A call is deemed complete, and considered part of Gross Revenue (as described above), when a connection is made between the inmate and the called party, whether such connection is established

by positive acceptance or by live or automated machine pick-up (e.g. when the ITS considers a tone from an answering machine, voicemail, etc. as acceptance). The call shall be deemed complete and billable regardless if Vendor can bill or collect revenue on the call.

7.5.10. Vendor may, upon request from BRRJA, utilize the onsite commissary provider to distribute and charge for inmate telephone services, provided there is a written agreement regarding the form and manner of how the associated taxes are to be collected and remitted. In the event the commissary provider collects and remits taxes for inmate telephone services, Vendor is solely responsible for obtaining a resale certificate from the commissary provider. Vendor is responsible for obtaining all proper documentation from the commissary provider. Vendor's agreement with the commissary provider must address the requirements set forth in this section.

7.5.10.1. Under Financial Option Number One, Vendor shall submit a monthly invoice and corresponding debit usage report to BRRJA for the full amount of the debit used (less any issued refunds) for the prior traffic month On the 5th day of the month following the month of traffic.

7.5.11. Traffic detail reports are due to BRRJA on or before the 20th day of the month following the traffic month.

7.5.11.1. Vendor shall provide monthly call cost invoices, revenue earnings and traffic detail reports to BRRJA via these methods:

7.5.11.1.1. BRRJA requires the upfront financial guarantee (Financial Option Number One) and Gross Revenue payments (Financial Option Number Two) to be sent via wire transfer.

7.5.11.1.2. BRRJA requires the traffic detail reports and call cost invoices be sent electronically in an exploitable format.

7.5.12. Traffic detail reports shall include a detailed breakdown of all traffic, including but not limited to all collect, pre-paid and debit calls for each inmate telephone at the Facilities:

7.5.12.1. Facility Name;

7.5.12.2. Facility Identification Number/Site Identification Number;

7.5.12.3. Facility Address (Street, City, State and Zip);

7.5.12.4. Automatic Number Identifier;

7.5.12.5. Inmate Telephone Station Identifier;

7.5.12.6. Inmate Telephone Location Name;

7.5.12.7. Local Call, Minutes, Gross Revenue (Per Inmate Telephone);

7.5.12.8. Intralata/Intrastate Call, Minutes, Gross Revenue (Per Inmate Telephone);

7.5.12.9. Interlata/Intrastate Calls, Minutes, Gross Revenue (Per Inmate Telephone);

7.5.12.10. Intralata/Interstate Calls, Minutes, Gross Revenue (Per Inmate Telephone);

7.5.12.11. Interlata/Interstate Calls, Minutes, Gross Revenue (Per Inmate Telephone);

7.5.12.12. International Calls, Minutes Gross Revenue (Per Inmate Telephone);

7.5.12.13. Cost Per Call for Financial Option Number Two;

7.5.12.14. Total Calls, Minutes, Revenue; and

7.5.12.15. Traffic Period and Dates.

7.5.13. Vendor shall provide a sample report showing how all of the above requirements will be met. Vendor shall indicate if any of the required fields above cannot be provided or supplied in [Attachment D – Exceptions](#) of its response to this RFP.

7.5.14. Vendor shall provide monthly billing files to BRRJA no later than the 20th day of the month following the month of traffic.